



470262

Thomas Turner07/18/2002 08:02
AMTo: DPinksto@enrd.usdoj.gov, MSteinberg@morganlewis.com,
tfaye@westol.comcc: RONALD MURAWSKI/R5/USEPA/US@EPA, Carlton
Cuffman/R5/USEPA/US@EPA

Subject: Old American Zinc (OAZ) Superfund Site (Fairmont City, IL) - RI/FS

Dear Counsels:

I am communicating with the three (3) of you in this fashion due to conversations, or messages that I have received and/or left in the last day or so that have lead me to believe that there is not a great impetus to move forward with useful negotiations at the above referenced Site, despite the assurances of your respective letters of May through early July 2002. There are two (2) issues of importance that I would like to clarify.

U.S. EPA strongly encourages the parties identified in the April 2002 Notice letters to hold formal and direct communications with one another and as a group, in order to show support for their asserted good faith positions. Primarily, this is because the statutory thirty (30) day extension period for negotiating an offer to U.S. EPA has already begun to run, given the initial moratorium date of June 28, 2002, for response to U.S. EPA's Notice letters. To that end, I am suggesting that you hold a conference telephone call, and discuss the offer between U.S. EPA and the parties, and between the parties themselves. (Ms. Faye: According to your responsive telephone message to me of Wednesday, July 17, 2002, even though you will be on leave, you indicated that you could still be reached at need for discussion concerning the Site). Therefore, please consult your respective schedules and contact one another with acceptable dates and times. U.S. EPA will also willingly participate (with adequate notice) in some or all of this telephone conference, if the parties so desire.

A second issue of importance in this matter, as I have stated before to all counsel, is the need for U.S. EPA to receive confirmation of even an approximate date by which U.S. EPA will receive a 'mark up' version of the Draft CERCLA Administrative Order on Consent (AOC) for RI/FS and Draft Statement of Work (SOW). (Ms. Faye has indicated that she would perform this task, if it is likely that she is having productive negotiations with the other parties. For obvious reasons, U.S. EPA therefore encourages all of the parties to negotiate and work towards a resolution that allows for a negotiated settlement agreement and moves forward the remedial planning at the Site. Neither the drafting party's need for some hyperbole, nor the other parties' needs to work towards extending their time frames for the sake of better financial positions with respect to overall costs, should bring to a halt the matter of producing basic commentary on the AOC and SOW. It is in all parties' interest to see that this occurs, otherwise I will be forced to respond to pressures from my institutional clients to seek more stringent, detailed and less flexible enforcement alternatives.

Please feel free to contact me, if you wish for U.S. EPA to participate in a conference call between July 29 and August 16, 2002. Further, I await a written indication of a date to expect a mark up copy of the AOC and SOW. Also, please feel free to contact me individually or collectively, with comments or questions by e-mail or at 312/886-6613.

Tom Turner, U.S. EPA, ORC, Region 5